THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21557 of 2005

ORDER:

It appears, the petitioner is a fair price shop dealer of Itika village, Jiyyammavalsa mandal, Vizianagaram district. While so, the third respondent-Revenue Divisional Officer passed order dated 29.6.2004 cancelling the authorisation of the petitioner on the ground that the dealer has sold the essential commodities at higher rates i.e. Rice @ Rs.5.50 ps., Sugar @ Rs.15-00, kerosene oil @ Rs.11-00 and Antyodaya Rice @ Rs. 3-40 ps. causing much inconvenience to the cardholders. Further, the dealer bluntly refused to give commodities to Sri Arasada Satyam Naidu and Vakada Pakeeru Naidu since earlier they made complaint against him. Aggrieved by the same, petitioner carried the matter in appeal before the second respondent-Joint Collector. The second respondent dismissed the appeal on 9.11.2004 confirming the orders passed by the third respondent. Aggrieved thereby, the petitioner carried the matter in revision before the first respondent-District Collector. The first respondent also dismissed the appeal confirming the orders passed by the third respondent as confirmed by the second respondent. Aggrieved by the same, the present writ petition is filed.

I have gone through the impugned proceedings and other material made available on record.

The charge No.1 is general in its nature and charge No.2 is particular and specific. Insofar as charge No.1 is concerned, none were examined. There is no acceptable evidence on record. It seems, an open enquiry was conducted in the village in the presence of Sarpanch, Vice-Sarpanch, Ex-Sarpanch, Panchayat Secretary, Ward members, Village elders and Cardholders. The impugned order do not disclose as to who conducted the enquiry and whether the petitioner was present in the enquiry and any panchanama was drawn, except stating

that there is a general complaint from the cardholders that the petitioner has sold the essential commodities at higher rates. What is the excess amount collected is also not mentioned anywhere. Further, insofar as charge No.2 is concerned, the petitioner gave an explanation that Arasada Satyam Naidu and Vakada Pakeeru Naidu have earlier filed complaints against him and apart from that, the sister of the Sarpanch was kept as incharge of FPS dealer of Itika village at the time when the petitioner was kept under suspension in connection with proceedings under Section 6A of the Essential Commodities Act. The sister of the Sarpanch has made false allegations against him to see that she is placed again as incharge of the FPS dealer of Itika village.

It is interesting to notice that the open enquiry conducted on 25.5.2004 was in the presence of Sarpanch, whose sister earlier made complaint against the petitioner and was successful in getting the dealership of the petitioner suspended and becoming incharge of Itika village for sometime.

Be that as it may, absolutely there is no evidence to show either petitioner has sold the essential commodities at higher rates or that Arasada Satyam Naidu and Vakada Pakeeru Naidu are genuine persons.

In view of the above, I am of the opinion that the order of the third respondent dated 29.6.2004 cancelling the authorisation of the petitioner as confirmed by the second respondent and further confirmed by the first respondent are arbitrary, illegal apart from being violative of principles of natural justice and therefore, they are liable to be set aside and are accordingly set aside. Instead of remanding the matter for fresh enquiry, the period from the date of suspension of the dealership of the petitioner till date may be treated as suspension as a measure of punishment. The respondents are directed to restore the authorisation of the petitioner forthwith.

The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V.RAMULU, J

Date: 1.9.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21557 of 2005

1.9.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21557 of 2005

Dated: 1st September, 2006

Between:

K.Manmadha Rao

.. Petitioner

and

The District Collector,
Vizianagaram district,
Vizianagaram & others.

.. Respondents